

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MA BELEN PUGA,

Plaintiff,

v.

HOME DEPOT U.S.A., INC.,

Defendant.

NO. 1:22-cv-00398

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(b) (DIVERSITY)

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant HOME DEPOT U.S.A., INC., A Georgia Corporation (“HOME DEPOT”) hereby removes this action from the Second Judicial District Court of the State of New Mexico, County of Bernalillo, to the United States District Court, District of New Mexico pursuant to 28 U.S.C. §§ 1441 and 1446. In support of its Notice of Removal, HOME DEPOT states as follows:

BASIS FOR REMOVAL

1. Plaintiff MA BELEN PUGA (“PLAINTIFF”) filed a Complaint for Personal Injury Damages (the “Complaint”) against HOME DEPOT, on April 8, 2022. The Complaint appears to assert a negligence action. The Complaint was filed under the caption of *MA BELEN PUGA v. HOME DEPOT U.S.A., INC.*, in the Second Judicial District Court, Bernalillo County, New Mexico, Case No. D- 202-CV-2022-01910.

2. The Complaint in this action was sent to HOME DEPOT via service through its registered agent on April 26, 2022. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all pleadings and documents filed and served to date in the action are attached hereto as Exhibit “A.”

3. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) in that it has been filed within thirty (30) days of initial receipt by HOME DEPOT of a copy of the pleading setting

forth the claim for relief upon which PLAINTIFF's action is based.

4. This Notice of Removal is also timely under 28 U.S.C. § 1446(b), as it is being filed within one (1) year of the commencement of this action.

BASIS FOR FEDERAL DIVERSITY JURISDICTION

5. This action is a civil action and is removable under 28 U.S.C. § 1441(b) because this Court has original jurisdiction over this case under 28 U.S.C. § 1332(a)(1).

6. HOME DEPOT is informed and believes that at the time of the filing of the Complaint and this Notice of Removal, PLAINTIFF was and is a citizen of the State of New Mexico.

7. At the time of the filing of the Complaint and this Notice of Removal, HOME DEPOT is and was a citizen of Georgia, inasmuch as it is a corporation with its principal place of business in the state of Georgia and headquarters in the State of Georgia.¹

8. PLAINTIFF's claim arises out an alleged slip and fall by PLAINTIFF at a HOME DEPOT on September 19, 2019. (Complaint, ¶5.)

9. PLAINTIFF "request a judgment against Defendant Home Depot U.S.A., Inc., for damages; sufficient to fully compensate Plaintiff for the injuries described herein, for pre- and post judgment interest as allowed by law, for costs and for such other and further relief as the Court deems just and proper in law and in equity" (Complaint, ¶ 16.)

REMOVAL TO THIS JURISDICTION IS PROPER

10. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, removal of this action from the Second Judicial District Court of the State of New Mexico, County of Bernalillo, to the United States District Court for the District of New Mexico is appropriate.

11. The removal of this action to this Court is proper under 28 U.S.C. § 1441(a) inasmuch as the Second Judicial District Court of the State of New Mexico, County of Bernalillo, where this action was originally filed, is located within this judicial district.

12. HOME DEPOT respectfully requests that this Court assume jurisdiction over this matter and issue such orders and processes as may be necessary to bring before it all the parties

¹ Home Depot is incorporated in Delaware.

necessary for the trial hereof.

13. Counsel for HOME DEPOT certifies that it will file a true and correct copy of this Notice of Removal with the Clerk of the Second Judicial District Court of the State of New Mexico, County of Bernalillo, as required by 28 U.S.C. § 1446, and give notice of same to PLAINTIFF.

Dated: May 26, 2022

Respectfully submitted,

By:

/s/ P. Saxon Guerriere

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